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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/853,160 | 05/11/2001 | Satoru Funakoshi | 7372/71158 | 6913 |

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EXAMINER

NORDMEYER, PATRICIA L

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1772

DATE MAILED: 08/02/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/853,160

Applicant(s)

FUNAKOSHI, SATORU

Examiner

Patricia L. Nordmeyer

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION
RESPONSE TO AMENDMENT

Election/Restrictions

1. Applicant's election with traverse of Group I, claims 1 and 2 in Paper No. 2 is acknowledged. The traversal is on the ground(s) that the objective set forth in MPEP Section 803 may be readily achieved in the present application by examining all claims at one time. This is not found persuasive because the method claims are classified in a different class than the article claims, and it would be the best interest of the Applicant to have an Examiner qualified in the method examine the claims.

The requirement is still deemed proper and is therefore made FINAL.

WITHDRAWN REJECTIONS

2. The objections to the Drawings of record in Paper #4, Page 2, Paragraph 1 has been withdrawn due to Applicant's amendment in Paper #6.

3. The 35 U.S.C. 103 rejections of record in Paper #4, Pages 2 - 3, Paragraphs 3 - 6 have been withdrawn due to Applicant's arguments in Paper #6.

NEW REJECTIONS

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 2 rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al. (USPN 5,793,002).

Sato et al. discloses a speaker with a speaker grille (one of the skin layers) and a base portion with both a skin layer and a foam layer made from one piece of material (Figure 1, #2 and 3), where the material used to make the speaker is polypropylene (Column 3, lines 34 – 36). The foam layer in the base portion of the speaker has a density between 0.32 to 0.93 g/cm³ with expansion ratios from 1 to 2.90 (Figure 10). Regarding claim 1, Sato et al. discloses the thickness of the speaker to be between 0.30 and 0.87 mm. The exact density of the foam layer in the base portion is deemed to be a cause effective variable with regard to the thickness and expansion ratio of the foam in the base portion as shown by Figure 10. It would have been obvious to one having ordinary skill in the art to have determined the optimum value of a cause effective variable such as the density of the base portion as shown by Sato et al. through routine experimentation (Figure 10) in the absence of a showing of criticality in the claimed thickness. *In re Boesch*, 205 USPQ 215 (CCPA 1980), *In re Woodruff*, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

RESPONSE TO ARGUMENTS

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5. Applicant's arguments with respect to claims 1 and 2 regarding the 35 U.S.C. 103 rejection over Steward et al. in view of Karukaya et al. in Paper #3 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Nordmeyer whose telephone number is (703) 306-5480. The examiner can normally be reached on Mon.-Thurs. from 7:00 -4:30 p.m. & alternate Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on (703) 308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Patricia L. Nordmeyer
Examiner
Art Unit 1772

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July 30, 2002

[Signature]
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772 7/30/02